

REMARKS

Elected Claims

Claims 1-15 were pending in this application. Applicants hereby affirm the election of claims 1-15 as requested in the Office Action. Applicants reserve the right to pursue the cancelled claims in a divisional application. Applicants also add new dependant claims 32-36.

Amendment to the Specification

Applicants have amended the “Cross-Reference to Related Applications” section to revise the formatting of the section, to correct a typographical error in the reference to U.S. Patent Application Serial No. 60/190,944, to add the application serial number for U.S. Patent Application Serial No. 60/235,174, and to include add a reference to the now-issued U.S. Patent No. 6,400,272. No substantive changes to priority information have been made.

Claim Rejections

The Office Action states that claims 1-5, 12, and 14-15 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 6,446,049 to Janning et al. (“Janning”) in view of U.S. Patent No. 6,487,540 to Smith et al. (“Smith) and further in view of U.S. Patent No. 6,662,166 to Pare, Jr. (“Pare Jr.”) Claims 6-11 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Janning, Smith, Pare Jr., and O’Hagan. Applicants respectfully submit that the claims as amended are patentable over the references cited in the Office Action.

Janning

Janning is a “cashless business transaction system (e.g., a vending system, a material tracking system, or a highway toll system)” (Abstract) that provides “a transmission system for digital information that permits such digital information to be

transmitted from a substantively electrically shielded environment.” Col. 3, lines 40-45.
Janning provides a method for making payments, in which billing information is communicated to a transceiver in the form of a radio signal:

Once the dispenser transceiver 22 is positioned sufficiently close to the receptacle transceiver 50 to permit reception of the interrogation signal and the receptacle transceiver 50 acknowledges reception of the interrogation signal during a polling cycle of the dispenser transceiver 22, the receptacle transceiver 50 transmits billing information (e.g., a credit card or debit card account number, expiration date, creditor identification, or any other information stored by the issuer of the charge or debit account) to the dispenser transceiver 22 in the form of a radio signal 55. . . . By using low frequency magnetic coupling to convey information instead of high frequency electromagnetic coupling, the receptacle transceiver 50 can be located within substantially electrically shielded environments physically associated with the receptacle 51 for the product, such as automobile trunks or automobile hoods, without substantially affecting transmission or reception.

Col. 9, lines 31-58.

The Janning dispenser transceiver thus communicates actual credit card or debit card information to a receptacle transceiver. Janning states that systems that encode a transponder “with a secondary account number that identifies, but does not actually represent, an actual credit card or debit account number” (col. 2, lines 63-65) are deficient because “such an approach limits or complicates universal acceptance of the system by vendors other than the issuer of the transponder due to the need to make available to other vendors a database cross referencing the actual and secondary account numbers.” Col. 2, line 66- Col. 3, line 3.

Smith

Smith relates to “methods and apparatus for the generation, transmission, storage, and manipulation of electronic receipts which communicate itemized purchase transaction information.” (Abstract) Smith’s preferred embodiments “comprise wireless

vendor devices and wireless purchaser devices which transmit electronic receipts at a point-of-sale for documentation of a purchase transaction.” (Abstract)

In Smith, “an exchange of information takes place between a vendor device... and a purchaser device.” Col. 6, lines 10-12. This information exchange “may comprise multiple transactions” and “may comprise credit or debit account identification and authorization as well as identification of vendor and purchaser along with account information.” Col. 6, lines 12-19. Information exchange also “comprises the transmission of electronic receipt information from vendor device 20 to purchaser device 2. Electronic receipt information typically comprises purchase transaction information including, but not limited to, total purchase price, vendor ID, purchaser ID, item descriptions, itemized pricing, purchase date, purchase time, discount information, creditor information, authorization information, receipt management information and other transaction information.” Col. 6, lines 21-29.

Pare Jr.

Pare Jr. is directed to “tokenless” biometric electronic debit and credit transactions. Pare Jr. attempts to address the “inconveniences and security vulnerabilities” that Pare Jr. sees in token-based systems. Col. 1, lines 57-66. Specifically, Pare Jr. provides “a method and device for tokenless authorization of an electronic payment between a payor and a payee using an electronic indicator and at least one payor bid biometric sample.” Col. 5, lines 1-5. Pare Jr. states that the Pare Jr. approach is advantageous over other systems because Pare Jr. “eliminates the need to directly possess any personalized tokens in order to access their authorized electronic financial accounts.” Col. 5, lines 50-55.

O’Hagan

O’Hagan is a retail customer information system allows “a customer to scan coupons at home with a scanner coupled to the customer’s home computer.” Col. 3, lines 14-16. The customer “can access the store[’]s host computer.” Col. 3, line 18. The

customer then can “generate a shopping list through the host computer and apply the coupon list against the shopping list.” When at the store, the customer gains access to the shopping list by using a “shopping cart with a portable computing device (i.e., a mobile terminal) attached thereto.” Col. 3, lines 25-27. The portable computing device then helps the customer find the items in the list and scan the items for check-out:

The host computer via the access points and host computer can guide the customer through the store in the most efficient manner. For example, the host computer can generate a map and protocol for the user to find the products desired without having to go back and forth through the store.

Furthermore, the customer can scan the products found at the store with the bar code scanner attached to the portable computing device before placing the products in the cart. This aspect along with the avoidance of handing over paper coupons at checkout substantially reduces the length of time necessary at the check-out line.

Col. 3, lines 30-42.

Independent Claim 1

Independent claim 1 recites, in part, “receiving at a physical retail location an identifier associated with a physical token presented by a customer at the physical retail location,” and “accessing customer data from a database located somewhere other than the token based on the received identifier associated with the token,” and “identifying in the customer data a product order selected by the customer,” and “preparing the identified customer order at the retail location,” and “identifying in the customer data a preferred payment method for the customer.”

The Office Action cites Janning in combination with Smith and Pare Jr. Janning, Smith, and Pare Jr. are payment systems. Janning is a payment system for paying for gas at a gas pump, Smith collects receipts, and Pare Jr. uses biometrics instead of a physical token.

None of Janning, Smith, or Pare Jr. teach or suggest “identifying in the customer data a product order selected by the customer,” and “preparing the identified customer order at the retail location.” For example, none of Janning, Smith, or Pare Jr. teach or suggest using a physical token to access customer data, preparing a customer order that was identified in the customer data in response to an identifier, identifying payment information in the customer data, and executing payment.

The payment systems of Janning, Smith, and Pare Jr. do not teach or suggest using an identifier associated with a physical token to obtain customer data. Janning and Smith store the payment information itself on the token, so they have no need for an identifier associated with the physical token. Pare Jr. doesn't have a token.

The payment systems of Janning, Smith, and Pare Jr. do not teach or suggest preparing a customer order that was identified in customer data obtained in response to an identifier. The Janning device merely provides payment information. The Smith device may transmit payment information, and may receive receipt information. Pare Jr. doesn't have a token.

The combination of Smith and Pare Jr. is more likely to result in a wireless payment token that also stores receipts. The addition of Pare Jr. is hard to imagine, given that Pare Jr. is tokenless. Pare Jr. teaches away from combination with the other references, which expressly describe using a token. As such, it would be improper to use Pare Jr. in combination with the other references to attempt to reach the claimed invention.

Applicants also note that this application claims priority to U.S. Provisional Patent Application Serial No. 60/190,944, filed March 21, 2000 (among others), and that Smith has a filing date of July 25, 2000, which is after the filing date of this provisional patent application. If the arguments above are not found to be persuasive, Applicants reserve the right to submit that the pending claims are supported by the subject matter of the provisional patent application, thereby removing Smith as a prior art reference under § 102 (e).

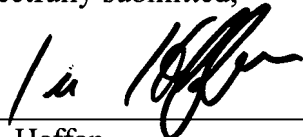
CONCLUSION

In view of the foregoing, Applicants respectfully submits that the claims are in condition for allowance. The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Date: 5/1/07
Reg. No. 41,059

Tel. No.: (617) 570-1777
Fax No.: (617) 523-1231

Respectfully submitted,



Ira V. Heffan
Attorney for Applicants
Goodwin Procter LLP
Exchange Place
Boston, Massachusetts 02109

Customer No. 051414